

### **REMARKS**

Claims 1 to 69 are pending in the present application, of which independent claims 1, 30, 46, 47 and 59 are amended. Reconsideration and reexamination are respectfully requested.

The claims are rejected under 35 U.S.C. § 103(a): claims 1, 4-7, 10, 12, 13, 20, 21, 26, 27, 30, 33, 34, 36, 39-48, 54-59, 62 and 66-69 are rejected over the three-way combination of WO 99/26415 (Bar-el), U.S. Patent No. 6,480,547 (Chen) and U.S. PGPub. No. 2001/0023436 (Srinivasan), claims 11, 14-18, 28, 35, 37, 49-51 and 64 are rejected over the four-way combination of Bar-el, Chen, Srinivasan and U.S. PGPub. No. 2002/0026638 (Eldering '638), claims 2, 3, 24, 25, 29, 31, 32, 60 and 61 are rejected over the four-way combination of Bar-el, Chen, Srinivasan and U.S. Patent No. 5,872,588 (Aras), claims 52 and 53 are rejected over the five-way combination of Bar-el, Chen, Srinivasan, Eldering '638 and Aras, claims 22 and 23 are rejected over the four-way combination of Bar-el, Chen, Srinivasan and U.S. Patent No. 5,424,770 (Schmeizer), claims 8 and 9 are rejected over the four-way combination of Bar-el, Chen, Srinivasan and U.S. Patent No. 6,169,542 (Hooks), claim 63 is rejected over the four-way combination of Bar-el, Chen, Srinivasan and U.S. Patent No. 6,154,206 (Ludtke), and claim 19 is rejected over the five-way combination of Bar-el, Chen, Srinivasan, Eldering '638 and U.S. Patent No. 6,385,192 (Kozdon). Reconsideration and withdrawal of the remaining claim rejections are respectfully requested based at least on the following reasons.

By way of a non-limiting example and in accordance with one or more embodiments, reference is respectfully made to Figure 1 and paragraphs 19 and 20 of the publication of the present application, i.e., U.S. PGPub. No. 2003/0056213 (hereinafter referred to as "the published application"), wherein flow control system 10 is in communication with input sources 12, 14 and 16 as part of a system, which includes a streaming media server 104, a web server 106 and multiple end user processors 102. In accordance with at least one embodiment and by way of a non-limiting example, streaming media server 104 serves the encoded composite information stream for playback by a media player at one or more end user processors 102. By way of a further non-limiting example, in accordance with at least one embodiment, reference is made to Figure 2 of the published application, wherein flow control system 10 acts as an intermediary between an encoder 26, e.g., a media encoder, and a media delivery device 24,

which includes a capture portion to receive data from a number of input sources, e.g., sources 12, 14 and 16. By way of yet another non-limiting example, reference is made to Figure 4, wherein flow control system 10 includes media capture 24 and media driver 34 components in accordance with at least one embodiment. In accordance with one or more embodiments, flow driver 20 of the flow control system 20 selectively passes data received from multiple ones of the input sources, e.g., sources 12, 14 and/or 16, as a composite information stream to encoder 26, which encodes the composite information stream as an encoded composite information stream for playback by the media player at an end user processor 102. By way of a further non-limiting example and in accordance with one or more embodiments disclosed in the present application, reference is made to the paragraph 24 found at page 2 of the published application, which describes (in part):

flow control system 10 continues to pass data from the media delivery device until it receives a signal that data from an alternate source should be inserted. When such a signal is received, flow control system 10 selects the designated alternate source as indicated in block 216, and passes data from the selected source to encoder 26. The data from this alternate source will be inserted into the data stream until the entire file has been delivered to encoder 26. Once the file has been inserted into the stream, flow control system 10 returns to block 214 to determine whether another alternate source should be selected to transmit another file. If so, the next alternate source is selected and the data is passed from the selected source to encoder 26. This continues until it is determined (i.e. at block 214) that no files from other sources are to be passed to encoder 26. Flow control system 10 then returns to media delivery device 24 and continues to pass data from media driver 36 to encoder 26.

In accordance with one or more embodiments, the flow of unencoded data from multiple sources is controlled so as to pass the controlled flow as a composite information stream of unencoded data from the flow control system to a media encoder for encoding into an encoded composite information stream for a media player.

Claim 1 recites a system comprising a media delivery device, a flow control system and a media encoder. The media delivery device has a media device driver associated therewith. The

flow control system, which is independent of and communicating with the media delivery device and with a stored data source, is configured to receive unencoded digital data not yet encoded for streaming from the media delivery device and from the stored data source, and to control the flow, so as to directly pass a controlled flow of data as a composite information stream of unencoded digital data not yet encoded for streaming from the flow control system to the media encoder for encoding into an encoded composite information stream. The encoded composite information stream is made available for delivery over the internet to a media player.

The independent claims are amended to even more clearly recite that the unencoded data that is passed to the encoder is digital data. The amendments should not be construed as an agreement or acquiescence with the position taken in the Office Action. The Applicant respectfully submits that the claimed subject matter is patentably distinct over the applied art with or without such an amendment.

The Examiner has conceded that Bar-el fails to disclose receiving unencoded data not yet encoded for streaming and passing the encoded data to a media encoder for encoding into an encoded information stream for a media player. In the present Office Action, the Examiner concedes that Bar-el fails to disclose receiving unencoded data not yet encoded for streaming and passing the unencoded data to a media encoder for encoding into an encoded information stream for a media player and ceasing passing data from said media delivery device, beginning passing data from said stored data source, ceasing passing data from said stored data source and returning to pass data from said media delivery device. In view of the concessions made by the Examiner, it is respectfully submitted that Bar-el cannot disclose the claimed flow control system, which receives unencoded data not yet encoded for streaming from multiple sources, the media delivery device and the stored data source, and controls the flow of the unencoded data from the media delivery device and the stored data source so as to directly pass a controlled flow of data as a composite information stream of unencoded data not yet encoded for streaming from the flow control system to a media encoder for encoding into an encoded composite information stream for a media player. The Applicant respectfully submits that Chen fails to remedy at least the deficiencies noted with respect to Bar-el.

Bar-el describes inserting a personalized image into a video stream (see Abstract of Bar-el). Bar-el's video server 11 transmits an encoded personalized video stream to a user computer

12 that has a video unit 14 executing a video player, such as Real Network's REALVIDEO application (see Figure 1, p. 7, ll. 13 to 16, and p. 8, ll. 10 to 18 of Bar-el). Bar-el's video personalization system 10 includes a video controller 24 that selects the encoded video stream and forwards the encoded video stream to a video personalization module 26, which adds a personalized image to the encoded video stream (Figure 2, p. 11, ll. 20-21, and p. 12, ll. 3-4 of Bar-el). Bar-el's video personalization module 26 makes frame-by-frame modifications to the encoded video stream using a frame holding the personalized image to implant pixels from the personalized image into the background of the frame of the encoded video stream to generate the personalized encoded video stream 28A or 28B that includes the personalized image (see Figures 1, 2, 3a, 3b and 4, p. 8, ll. 15-18, p. 9, l. 23 - p. 10, l. 2, p. 11, ll. 20-21, p. 12, ll. 10-15, p. 13, ll. 7-9, p. 13, l. 13-p. 13, l. 7, and p. 15, l. 22 - p. 16, l. 10 of Bar-el). More particularly, Bar-el's image adapter 40 of Bar-el's video personalization module 26 places the personalized image, which has been transformed into the perspective of the encoded video stream's frame, into a blank frame, and a mixer 44 of Bar-el's video personalization module 26 mixes the frame with the personalized image with the frame of the encoded video stream to create one frame of the personalized video stream using a pixel from the personalized image or a pixel from the encoded video stream to create one frame of the personalized video stream (see p. 15, l. 6-p. 16, l. 10 of Bar-el).

In contrast to Bar-el's video personalization module 26 that replaces pixels in an encoded video stream with pixels from a personalized image, the claimed flow control system controls the flow of unencoded data from a media delivery device and the flow of unencoded stored data from a stored data source. In further contrast to Bar-el's encoded personalized video stream output by Bar-el's video personalization module 26, the claimed flow control system outputs a composite information stream of unencoded data not yet encoded for streaming. In contrast to Bar-el's video personalization module 26 passing its personalized encoded video stream to the user computer's video player unit, the claimed flow control system directly passes a controlled flow of data as the composite information stream of unencoded data not yet encoded for streaming to a media encoded for encoding into an encoded composite information stream for a media player. Bar-el fails to disclose the claimed flow control system, which receives unencoded data not yet encoded for streaming from multiple sources, the media delivery device and the stored data

source, and controls the flow of the unencoded data from the media delivery device and the stored data source so as to directly pass a controlled flow of data as a composite information stream of un encoded data not yet encoded for streaming from the flow control system to a media encoder for encoding into an encoded composite information stream for a media player.

Chen fails to remedy the deficiencies of Bar-el noted herein and in the Office Action. Chen describes a system of encoding and decoding scalable video. Like Bar-el, Chen fails to disclose a flow control system, which receives unencoded data not yet encoded for streaming from multiple sources, the media delivery device and the stored data source, and controls the flow of the unencoded data from the media delivery device and the stored data source so as to directly pass a controlled flow of data as a composite information stream of un encoded data not yet encoded for streaming from the flow control system to a media encoder for encoding into an encoded composite information stream for a media player.

Like Chen and Bar-el, Srinivasan fails to disclose a flow control system, which receives unencoded data not yet encoded for streaming from multiple sources, the media delivery device and the stored data source, and controls the flow of the unencoded data from the media delivery device and the stored data source so as to directly pass a controlled flow of data as a composite information stream of un encoded data not yet encoded for streaming from the flow control system to a media encoder for encoding into an encoded composite information stream for a media player.

Srinivasan focuses on an authoring system that has authoring stations for associating authored metadata to a video data stream. The cited portions of Srinivasan, i.e., ¶¶ 201-210, concern delivering personalized video advertisements to a particular cable system subscriber. At ¶ 204, Srinivasan describes that its ad server has control over the broadcast of a video stream and the broadcast of an ad stream, with the ad server being able to stop the broadcast of the video stream from a server so that the ad stream can be broadcast from the same or a different server. At ¶ 208, Srinivasan describes that at appropriate times during the broadcast of a video stream, the ad server triggers a video server to stop broadcasting the main video stream, and triggers the same or different server to begin broadcasting the appropriate ad stream, and when the ad is finished the ad stream is stopped and the main video stream is triggered to begin again at the point that it stopped. In contrast to the video and ad streams and controlling the broadcast of the

video and ad streams by Srinivasan, the claimed data that is controlled by the claimed flow control system is unencoded data not yet encoded for streaming. In further contrast to Srinivasan's ad server that controls the broadcast of a video stream and the broadcast of an ad stream to a subscriber's cable set-top-box, the claimed flow control system controls the flow of unencoded data from multiple sources as a controlled flow of data that is passed as a composite information stream of unencoded data not yet encoded for streaming from the flow control system to a media encoder for stream-encoding. As yet a further contrast to Srinivasan, the claimed flow control system receives unencoded data not yet encoded for streaming by ceasing passing the unencoded data not yet encoded for streaming received from one source, such as the media delivery device, beginning passing the unencoded data not yet encoded for streaming received from another source, such as the stored data source, ceasing passing the unencoded data not yet encoded for streaming received from the stored data source and returning to pass the unencoded data not yet encoded for streaming received from the media delivery device, so as to pass a controlled flow of data as a composite information stream of unencoded data not yet encoded for streaming from the flow control system to the media encoder for stream-encoding.

The remaining art, i.e., Eldering '638, Aras, Schmeizer, Hooks, Ludtke and Kozdon, and the grounds for which the remaining art is applied is not considered to remedy the above-noted deficiencies in Bar-el and Chen, so any such combination also fails to reach all of the claimed elements of the presently pending claims.

In view of the foregoing, the entire application is believed to be in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

With reference to the Officially Noticed facts, as is made clear from MPEP § 2144.03 and the case law provided therein, Official Notice is only appropriate in a limited number of circumstances and should only be taken where the facts asserted to be well-known or common knowledge are capable of instant and unquestionable demonstration as being well-known or common knowledge. It should not be used simply as a matter of convenience. The Applicant traverses the grounds for rejection based on Official Notice, e.g., rejection of Claims 13, 43, 58 and 69, since the Office Action fails to provide any evidentiary support of the facts asserted, and uses the unsubstantiated assertions as a basis to modify the art of record. Pursuant to MPEP § 2144.01, the Applicant respectfully requests that the Examiner provide documentary evidence of

the facts Officially Noticed should the Examiner maintain the § 1 03 (a) rejection of these claims. Furthermore, in view of the concessions made in the Office Action and the remarks provided herein, the Officially Noticed facts, (even if true, a point not conceded) fail to remedy the admitted deficiencies of the applied art noted in the Office Action as well as the deficiencies of the applied art pointed out herein.

Should matters remain which the Examiner believes could be resolved in a telephone interview, the Examiner is requested to telephone the Applicant's undersigned attorney. Alternatively, since it is believed that the claims of the present application are in condition for allowance, the Examiner is respectfully requested to issue a Notice of Allowance at the Examiner's earliest convenience.

The Applicant's attorney may be reached by telephone at 212-801-6729. All correspondence should continue to be directed to the address given below, which is the address associated with Customer Number 76058.

The Commissioner is hereby authorized to charge any required fee in connection with the submission of this paper, any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 50-1561. Please ensure that the Attorney Docket Number is referenced when charging any payments or credits for this case.

Respectfully submitted,

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